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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/954,509
Filing Date: September 14, 2001
Appellant(s): OMSHEHE ET AL.

Mark Joy
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 17, 2007 appealing from the Office action mailed May 18, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,968,384	REDDING et al	11-2005
5,845,065	CONTE et al	12-1998
AAPA	Applicant Admitted Prior Art	
6,049,789	FRISON et al	4-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-20 are hereby pending.

Response to Arguments

1. Applicant's arguments, (see Pre-Appeal Brief Request for Review Remarks, pages 2-4), filed 2/9/2006, with respect to the rejection of claims 1 and 17 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of *Redding et al* (US 6,968,384) and *Conte et al* (US 5,845,065).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1, 2, 4-6, 8-12, 14 and 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by *Redding et al* (US 6,968,384).**

a. Per claim 1 and 17 (differ only by statutory class), *Redding et al* teach the method for administering a session-based concurrent user licensing agreement on a manufacturing/process control information portal such that a single logon during a session

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persists across multiple distinct resources to which access is provided via a plant information portal server, the method comprising the steps:

- receiving, by the plant information portal server, an access request for a resource for which a license is required (*col.3 line 51-col.4 line 12, col.6 lines 15-26, col.7 lines 49-60; provision for the leader server and the license management program to control license servers*);
- invoking, based upon a code within a sequence of commands associated with the requested resource, a license manager associated with restricted resources associated with the plant information portal server, the license manager performing, for the purpose of granting, if needed, one of potentially multiple available session-based concurrent licenses, a set of further steps including (*Abstract, col.8 line 33-col.9 line 50, col.11 lines 17-21; license servers are associated with restricted resources and are in communication with the leader server, thereby allowing multiple concurrent client connections to each license server*);
- first confirming that an identified source associated with the request needs a concurrent license (*col.10 lines 30-39*);
- second confirming that a concurrent license is available to assign to the identified source (*col.9 lines 2-4, col.11 lines 3-9*); and
- adding the identified source to a list of session-based concurrent license users to which a session-based concurrent license is assigned (*col.7 line 61-col.8 line 32, col.11 lines 3-16, col.11 line 58-col.12 line 8*).

b. Per claim 2, *Redding et al* teach the method of claim 1 wherein the second confirming step is based upon a maximum number of allowed concurrently licensed sessions under an established concurrent license agreement maintained by the license manager (*col.6 line 36-38, col.11 lines 17-29*).

c. Per claim 4, *Redding et al* teach the method of claim 1 wherein the first confirming step comprises determining that the identified source does not currently possess one of the session-based concurrent licenses (*col.10 lines 42-51*).

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d. Claim 18 is substantially similar to claim 4 and is therefore rejected under the same basis.

e. Per claim 5, *Redding et al* teach the method of claim 4 wherein the first confirming step is carried out by comparing the identified source of the request with the list of session-based concurrent license users (*col.10 lines 42-51*).

f. Per claim 6, *Redding et al* teach the method of claim 1 further comprising the steps of: allocating a session-based concurrent license to the identified source; and adjusting a concurrent license counter value in accordance with the assigning step (*col.9 lines 4-44, col.11 lines 3-16, col.11 line 58-col.12 line 8*).

g. Per claim 8, *Redding et al* teach the method of claim 1 further comprising the license manager returning an indication of whether a session-based concurrent license has been granted to the identified source of the request (*col.9 lines 2-8, col.11 lines 7-9*).

h. Claim 19 is substantially similar to claim 8 and is therefore rejected under the same basis.

i. Per claim 9, *Redding et al* teach the method of claim 8 further comprising the steps of: receiving, by an entity that initiated a license request call to the license manager during the invoking step, the indication; and determining, based upon the received indication, whether to grant the access request (*col.9 lines 2-8, col.11 lines 7-9*).

j. Per claim 10, *Redding et al* teach the method of claim 1 wherein the sequence of commands include a conditional test for invoking the license manager (*col.6 lines 40-46*).

k. Per claim 11, *Redding et al* teach the method of claim 10 wherein the conditional test relates to an origin of the access request (*col.6 lines 40-46*).

1. Per claim 12, *Redding et al* teach the method of claim 1 further comprising, maintaining access via the portal server to a set of resources, wherein the invoking step is implemented with regard to the set of resources on an individual resource basis (*col.8 line 60-col.9 line 4*).

m. Per claim 14, *Redding et al* teach the method of claim 1 wherein the code within a sequence of commands associated with the requested resource comprises a function call for invoking a service with which the license manager is associated (*col.8 line 33-col.9 line 4*).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Redding et al* (US 6,968,384) in view of *Applicant Admitted Prior Art (AAPA)*.**

Per claim 3, *Redding et al* teach the method of claim 1 as applied above, yet fail to explicitly teach a web page provided by the portal server. However, *AAPA* teaches the method of claim 1 wherein the invoking step is performed in response to an attempt by a particular identified user-session to access portal resources via a web page provided by the portal server (*page 2, lines 26-29 and page 3, lines 5-11 and 17-19*).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system for controlling the number of concurrent copies of

a program in a network based on the number of available licenses of *Redding et al* by accessing portal resources via a web page because one type of portal server function is providing access to users through a web page where the user accesses the site using browser software.

6. **Claims 7, 13, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Redding et al* (US 6,968,384) in view of *Conte et al* (US 5,845,065).**

a. Per claim 7, *Redding et al* teach the method of claim 1 as applied above, and provisions commuter authorization licensing so the client can open the protected software program multiple time, including multiple simultaneous instantiations without resorting to the networked license computer (*col.12 lines 19-40*). Yet *Redding et al* fail to explicitly teach an allocated session-based concurrent license grant, spanning multiple distinct resources accessed via the plant information portal server. However, *Conte et al* teaches the provision of suite licenses that contain multiple distinct applications allowing the licensed user to access all of the applications/resources in the suite (*col.2 lines 21-26, col.6 lines 3-15, col.11 lines 44-62*).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Redding et al* and *Conte et al* in order to provide licenses that permit access to multiple resources and allow multiple accesses until the lifetime of the license expires; because doing so permits efficient usage and allocation of resources by grouping applications/resources into to suites to allow users to access more than one resource with a single license.

b. Per claim 13, *Redding et al* teach the method of claim 1 further comprising persisting a previous session-based concurrent license grant when a requestor exists a resource

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associated with an initial grant of the session-based concurrent license (*col.11 lines 37-43; Conte et al: col.25 lines 14-27*).

c. Per claim 15, *Conte et al* teach the method of claim 1 further comprising maintaining a historical record of concurrent license usage information (*col.22 line 67-col.23 line 11, col.27 lines 13-15*).

d. Claim 20 is substantially similar to claim 15 and is therefore rejected under the same basis.

7. **Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Redding et al* (US 6,968,384) and *Conte et al* (US 5,845,065) in view of *Frison et al* (USPN 6,049,789).**

Per claim 16, *Redding et al* and *Conte et al* teach the method of claim 15, as applied above, yet fail to explicitly teach the method further comprising displaying the concurrent license usage information via a query result interface. However, *Frison et al* teach collection of license usage data and reports for retrieval and display (*col.1 lines 46-61, col.3 line 55-col.4 line 16, col.5 lines 1-51*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Redding et al* and *Conte et al* with *Frison et al* in order to provide and display license usage data for retrieval and reporting purposes, useful to the maintenance of the license/licensee/licensor management system.

(10) Response to Argument

A. Appellant argues—with respect to independent claim 1—that the *Redding et al* reference fails to teach the claimed feature of a "plant information portal server".

Examiner respectfully disagrees. The term "*plant information portal server*" is not defined in Appellant's specification, the only description present is in found in the preamble of claim 1 which defines the functionality of the plant information server as "administering a session-based concurrent user licensing agreement on a manufacturing/process control information portal such that a single logon during a session persists across multiple distinct resources to which access is provided". Thus it is evident that the name alone "plant information portal" server does not hold patentable weight or any uniqueness that is descriptive of what the server actually performs. Ambiguity arises as to whether the name indicates that the portal server holds "plant information" or that the information portal server is specific for use in a plant environment. Nevertheless, Appellant's intention for implementation in a plant environment does not change or affect the functionality of the server to perform the claimed invention, which is directed to issuing licenses for resource allocations per client access requests.

In light of this knowledge, *Redding et al* clearly teach a leader server capable of performing these same functions wherein the leader server is a license server that is designated as leader of the other license servers (follower license servers) in a computer network (*col.5 lines 35-49col.7 line 49-col.8 line 9, col.9 lines 22-27*). The leader license server manages licenses for accessibility to the allocated network software resources based on the available allocations and authorizations requested of the follower license servers (*col.8 lines 10-56*). The "portal" feature is realized by virtue of *Redding et al's* embodiments involving network authorizations, wherein

the user requests authorization for a program using the networked license server and upon granting the authorization to the user, the networked license server functions as the portal or gateway to the requested software on the network wherein the user's computer must remain connected to the network to continue running the protected software (*col.9 lines 45-54*). Appellant's arguments are therefore unpersuasive.

B. Appellant argues—with respect to independent claim 1—that the *Redding et al* reference fails to teach the claimed limitation of "adding the identified source to a list of session-based concurrent license users".

Examiner respectfully disagrees. *Redding et al* clearly teach the administering of licenses to users based on the available allocations for each license server, wherein each license server has a limited amount of allocations (*col.7 line 61-col.8 line 9*), which are maintained in an available allocations record of the distribution table (*col.8 lines 10-32, col.8 line 62-col.9 line 44*). Furthermore, *Redding et al* specify that the "number of allocations for using the protected software program is the maximum number of users that can be running the protected software program at any one time" (*col.6 lines 36-40, col.11 lines 17-21*), which may include a flag that allows the licensing to be restricted only to selected customers (*col.6 lines 44-47*). These recitations therefore sufficiently achieve the functionality of adding users to a list of session-based concurrent license users, by virtue of the maintenance of limited allocations and licensed users running the software at one time. Appellant's arguments are therefore unpersuasive.

C. Appellant argues—with respect to independent claim 1—that the *Redding et al* reference fails to teach the claimed limitation of "first

confirming that an identified source associated with the request needs a concurrent license".

Examiner respectfully disagrees. *Redding et al*'s teach that after a user requests a commuter authorization license a local check is made to see if the user "has already received a commuter authorization"; if so the process terminates, if not, the process continues for fulfilling the user's request (*col.10 lines 30-62*). From this teaching it can be seen that the system's ability to check to determine if a user has a particular authorization license also accomplishes confirming that a user requesting a license needs a concurrent license, because a user that already has a particular license does not need another one. Appellant's arguments are therefore unpersuasive.

D. Appellant argues—with respect to claims 4, 5 and 18—that the rejection should be reversed.

Examiner respectfully disagrees and notes that Appellant has failed to articulate clear, sufficient arguments for these claims. However, since the claims are substantially similar to the limitations recited in arguments B and C above, the responses from these arguments likewise suffice for these claims.

E. Appellant argues—with respect to claim 9—that the *Redding et al* reference fails to teach "an indirect licensing scheme wherein a requestor of a concurrent license ultimately decides whether to grant an access request".

Examiner respectfully disagrees. Firstly, it is noted that the features upon which Appellant relies are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van*

Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 9 states: “receiving, by an entity that initiated a license request call to the license manager during the invoking step, the indication; and determining, based upon the received indication, whether to grant the access request”. The *Redding et al* reference teaches that the user sends a request to a follower license server for authorization to access a resource, the follower license server determines whether it has available allocations by communicating with the leader license server, if the follower license server has available allocations then it fulfills the request, if not then the follower license server issues a borrow request to borrow available allocations for another license server (*col.4 lines 1-18, col.8 line 57-col.9 line 44, col.10 line 63-col.11 line 25, col.11 line 58-col.12 line 8*). The determination of whether to grant the access request is made by the follower license server based on the number of allocations that are available (*col.9 lines 8-12*). Appellant’s arguments are therefore unpersuasive.

F. Appellant argues—with respect to claim 12—that the *Redding et al* reference fails to teach “the recited concurrent licensing scheme where a set of resources (that share a single license pool) independently execute their own invoking step”.

Examiner respectfully disagrees. Firstly, it is noted that the features upon which Appellant relies are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 12 states: “maintaining access via the portal server to a set of resources, wherein the invoking step is implemented with regard to the set of resources on an individual resource basis”. As stated above in response to argument A, *Redding et al*’s networked license server achieves the portal server feature. Furthermore, each

license server has an associated amount of available allocations to software resources, wherein each allocation is made and invoked on an individual basis per user request (*col.6 lines 36-40, col.7 line 61-col.8 line 32, col.8 line 62-col.9 line 44, col.11 lines 17-col.12 line 8*). Appellant's arguments are therefore unpersuasive.

G. Appellant argues—with respect to claim 3—that the combination of the *Redding et al* reference with *Applicant Admitted Prior Art (AAPA)* fails to make obvious that “once a user leaves a particular resource within a portal, the previously allocated session-based concurrent user license persists to other protected resources accessed via the plant information portal server”.

Examiner respectfully disagrees. Firstly, it is noted that the features upon which Appellant relies are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 3 states: “wherein the invoking step is performed in response to an attempt by a particular identified user session to access portal resources via a web page provided by the portal server”. As discussed above in the response to argument A, *Redding et al*'s teaching of a networked license server achieves the portal server feature, however *Redding et al* fail to explicitly teach that the license (portal) sever is accessible via a webpage. Thus *AAPA* was used in combination with the *Redding et al* reference to fulfill and realize the claim limitation of a user accessing portal resources via a webpage provided by a portal server (*page 2 lines 26-29, page 3 lines 5-11 and 17-19*). Accessibility through a server's webpage is well-known in the art and the combination of *Redding et al* with *AAPA* would have been obvious to one of ordinary skill in the art at the time the invention. Appellant's arguments are therefore unpersuasive.

H. Appellant argues—with respect to claims 7, 13, 15 and 20—that the combination of the *Redding et al* reference with the *Conte et al* reference fails to teach “session-based concurrent user licenses”.

Examiner respectfully disagrees. As stated previously and acknowledged by Appellant (*Appeal Brief: page 8, paragraph 4 line 2*), *Redding et al* teach the allocation of network authorization licenses which are session based (*col.9 lines 45-65*) and allocating the protected software programs to a maximum number of users at any one time (*col.6 lines 36-40*). The *Conte et al* teaches the other limitations of the above claims not argued by Appellant. Appellant’s arguments are therefore unpersuasive.

I. Appellant argues—with respect to claim 16—that rejection in view of the combination of the *Redding et al* reference with the *Conte et al* reference and *Frison et al* reference “should be reversed”.

Examiner respectfully disagrees and notes that Appellant’s failure to articulate clear, sufficient arguments for this claim warrant no response from Examiner. Nonetheless, Examiner recites the rejection for this claim made in the previous Office Action:

“Per claim 16, *Redding et al* and *Conte et al* teach the method of claim 15, as applied above, yet fail to explicitly teach the method further comprising displaying the concurrent license usage information via a query result interface. However, *Frison et al* teach collection of license usage data and reports for retrieval and display (*col.1 lines 46-61, col.3 line 55-col.4 line 16, col.5 lines 1-51*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Redding et al* and *Conte et al* with *Frison et al* in order to provide and display license usage data for retrieval and reporting purposes, useful to the maintenance of the license/licensee/licensor management system.”

Appellant’s arguments are therefore unpersuasive.

For the above reasons, it is believed that the rejections should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this Examiner's Answer.

Respectfully submitted,

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